

**OPINION
52-102**

December 29, 1952 (OPINION)

STATE EQUALIZATION FUND

RE: Institutions to Which It Applies

You have directed to this office a question concerning the eligibility of certain state schools operating under the jurisdiction of your board to share in the benefits of the State Equalization Fund. This is with reference thereto.

The schools to which you refer are the school for the blind, the school for the deaf and the state training school at Mandan.

The particular benefits available under the laws providing for the State Equalization Fund are (1) appropriations for vocational education; (2) emergency expenditures for financially distressed schools; (3) high school tuition payments.

You will note that in the statutes providing for each of these, reference is made exclusively to school districts.

By section 15-4003, funds for vocational education assistance are made available to "such school districts" as the state board of higher education should designate.

By section 15-4005, provision is made for emergency assistance to "financially distressed districts" and in section 15-4006, the superintendent of public instruction is required to certify to the state auditor the needs of the distressed school districts. Payment is authorized in subsequent statutes to the needy school districts.

By chapter 136 of the 1951 Laws of North Dakota, amending section 15-4014, authorization is given for payment of high school tuition fees in certain specified cases to "each school district or county agricultural and training school." The latter reference is to such county schools as the Walsh County Agricultural School and does not apply to any of the schools to which you have reference.

It therefore appears that the benefits of the equalization fund are restricted in their availability and it further appears that the schools under the jurisdiction of the Board of Administration do not come within such restriction.

This would not be true, of course, if it could be determined that the Legislature, at the time of the creation of the State Equalization Fund, had in mind a definition of "school district" other than its ordinary meaning. We can find no basis for this conclusion and there appears nothing to us to indicate the Legislature meant anything other than the common, special and independent

school districts as defined in prior chapters of the section on Education in our state code.

For the reasons stated, it is the opinion of this office that the state schools to which you refer may not share in the benefits of the State Equalization Fund.

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Attorney General